

# Calendar No. 1578

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SENATE

{ REPORT  
No. 1570

LIM TOY

FEBRUARY 22, 1927.—Ordered to be printed

Mr. BAYARD, from the Committee on Claims, submitted the following

## REPORT

[To accompany H. R. 8739]

The Committee on Claims, to whom was referred the bill (H. R. 8739) for the relief of Lim Toy, of the city of Boston, Mass., having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 1559, Sixty-ninth Congress, first session, which is appended hereto and made a part of this report.

[House Report No. 1559, Sixty-ninth Congress, first session]

The Committee on Claims, to whom was referred the bill (H. R. 8739) for the relief of Lim Toy, of the city of Boston, Mass., having considered the same, report thereon with a recommendation that it do pass.

### STATEMENT OF FACTS

Several demands were made upon the bondsman for the production of two Chinese aliens for deportation. The aliens not being produced, the bonds were forfeited and covered into the Treasury. Two months later the attorney for the bondsman offered to return the aliens at either New York or Boston, provided the Liberty bonds (which had been covered into the Treasury without his knowledge) were given to him as collateral security. The inspector at New York agreed to accept the aliens but made no mention of the refund of the bonds. The attorney turned over the Chinese to the inspector at New York, but could not get his bonds back because they had been covered into the Treasury.

TREASURY DEPARTMENT,  
Washington, February 11, 1926.

CHAIRMAN COMMITTEE ON CLAIMS,  
*House of Representatives.*

SIR: Receipt is acknowledged of your communication of February 8, 1926, requesting a report on H. R. 8739, a bill for the relief of Lim Toy, of the city of Boston, Mass. The bill authorizes and directs the return to Lim Toy, of the city of Boston, Mass., certain Liberty-loan bonds said to have been deposited as bail bonds for the appearance of two certain Chinese aliens, which bonds had

been breached and the Liberty bonds were turned over to the Secretary of the Treasury by the Secretary of Labor and covered into the Treasury, after which the aliens were surrendered to the immigration authorities and were deported.

The Treasury Department records show that by letter of June 10, 1925, Hon. Theodore G. Risley, Acting Secretary of Labor, transmitted to the Treasury Department the following-described Liberty bonds, with the request that they be redeemed and canceled and their proceeds deposited in the Treasury on account of miscellaneous receipts:

Issue	Serial No.	Amount	Coupons	Name of alien
Fourth 4½'s.....	H00806718	\$1,000	28	Lum Wing.
Do.....	J00806719	1,000	28	Do.
Do.....	K00806720	1,000	28	Do.
Do.....	G00348337	1,000	28	Lew Ah Bow.
Do.....	A01108371	1,000	28	Do.
Do.....	A02052951	1,000	28	Do.

The bonds were redeemed and canceled as requested, and their proceeds covered into the Treasury by miscellaneous revenues covering warrant No. 112, fourth quarter of 1925. The amount covered on account of principal of bonds was \$6,000; matured coupons, \$127.50; total, \$6,127.50.

There is no information in the possession of the Treasury Department indicating whether Lim Toy was bondsman for the aliens named or that he is entitled to the relief provided in the bill. As the forfeiture transaction was one under the jurisdiction of the Department of Labor, it is suggested that a request upon that department will probably secure for the use of the committee all facts in connection with the case prior to the delivery of the bonds to the Treasury Department.

Very truly yours,

A. W. MELLON,  
Secretary of the Treasury.

DEPARTMENT OF LABOR,  
Washington, February 20, 1926.

HON. CHARLES L. UNDERHILL, M. C.,  
House of Representatives, Washington, D. C.

MY DEAR MR. UNDERHILL: Adverting to your communication of the 8th instant, transmitting a copy of bill (H. R. 8739) for the relief of Lim Toy, and requesting, among other things, to be furnished, for the use of the committee, with all papers or copies thereof in the files of this department relating to the matter at issue, I take pleasure in submitting herewith two files of the Bureau of Immigration, Nos. 55231/533 and 55231/535, relating to Lew Ah Bow, alias Ah Sing, and Lum Wing, alias Lum Wong Teung, respectively.

These files relate to two Chinese aliens who were arrested in New York City in a seamen's boarding house on December 10, 1924, on charges of being found within the United States unlawfully, both under the Chinese exclusion and the general immigration laws. Warrants for their arrest were issued by this department under the authority granted in section 19 of the act of February 5, 1917, and the aliens were granted hearings thereunder, at Ellis Island, New York Harbor, where they were temporarily detained. The hearings accorded both these Chinese were on the same date, December 15, 1924, and the department, after a close study of the proceedings, ordered the deportation of both, the warrant in the case of Lew Ah Bow being dated December 22, 1924, and that covering Lum Wing January 8, 1925.

The immigration act of February 5, 1917, provides that aliens arrested under departmental warrants may be granted liberty under bonds, providing for their future appearance for hearing or hearings, or for deportation, when the latter can be accomplished. Under this privilege, the two arrested Chinese were admitted to bail on December 29, 1924, one Lim Toy, 19 Harrison Avenue, Boston, Mass., pledging Liberty bonds to the amount of \$3,000 for each of the Chinese. The originals of these bonds will be found in the inclosed records.

It became possible to deport these Chinese in a party scheduled to leave New York City January 24, 1925, and so the Chinese inspector in charge at that place

telegraphed and wrote to their surety, Lim Toy, to deliver or cause to be delivered the two Chinese at his office on January 23, that year. A similar notice was sent to Attorney Edward J. Casey, Boston, Mass., who was interested in the cases. The Chinese were not delivered on the date specified, and it was recommended to the department that the bonds in the cases be declared breached. However, because of the short period intervening between the notice given the obligor and the scheduled date for delivery, this department deemed it inequitable to declare the bonds breached at that time, but issued instructions that the Chinese inspector in charge, New York City, should make another demand for the surrender of the Chinese when a subsequent deportation party was decided upon, and to give the bondsman a longer period of time within which to make arrangements for the surrender of the Chinese aliens.

Accordingly, the official of this service in New York City again made written demand, under date of March 25, last, for the surrender of the two Chinese, before referred to, at his office on April 4, or the next month. This second request, a copy of which was sent Attorney Casey in Boston, was likewise not complied with, and the aliens were not surrendered. Representation was made that one or both of the Chinese could not be surrendered because of their illness, and on this feature Lim Toy was questioned at his place of employment at Boston on April 10, 1925, regarding the locations of these two Chinese for whom he was surety, and whether one of them was really seriously ill. A transcript of his examination will be found in bureau file 55231/533, herewith, and will evidence that he at that time had no definite knowledge of the addresses of the two Chinese in question, one being said to be in Chicago and the other in Worcester, Mass.; nor did he know that Lum Wing had any serious illness.

After this second failure to produce the Chinese for the desired deportation the question of having the bonds breached was again submitted to the department, which on April 16 last, ordered such action, and in accordance therewith an order on the Federal Reserve Bank of New York City was forwarded April 24, 1925, to the Chinese inspector in charge, New York City, for the withdrawal of the Liberty bonds pledged by Lim Toy as security in these cases. Under the regulations Lim Toy had executed a power of attorney to the Secretary of Labor for the disposition of these bonds, in the event of a default in the obligation. The bonds were forwarded to this department, and in the regular course deposited in the Treasury of the United States; so obviously they would not now be available for any refund.

On June 1, 1925, Edward J. Casey, attorney at Boston, Mass., wrote the Chinese inspector in charge at New York City that he had finally located the two aliens in question and would deliver them at New York on June 5, that year. He was informed that if desired the Chinese could be turned over to the commissioner of immigration at Boston. Attorney Casey appeared at the Chinese office in New York City on June 6, but did not bring the missing Chinese with him, stating that he would wait in the office for the aliens to arrive. After considerable waiting he departed, giving the Chinese inspector in charge to understand that he would telephone the Boston immigration office and arrange for the delivery of the two Chinese to be deferred until just before the next deportation party was scheduled to leave New York en route to China. It so happened that an immigrant inspector left the New York Chinese office about the same time and found the two Chinese on the sidewalk near the building, in company with Mrs. Casey. The inspector arrested the Chinese as deserters before they had an opportunity to decamp, if they had wished to do so, their arrest being in the presence of Mr. and Mrs. Casey. It has not been considered that the acquiring of Chinese in this manner would be in any way held as a surrender of them by the surety or his attorney; and at any rate their apprehension was effected after the bonds had been declared breached and transmitted to the department for deposit in the Treasury.

The two alien Chinese were deported from San Francisco on July 18, 1925, on the steamship *President Harrison*. They were admitted illegally in the country, Lum Wing having confessed to landing as a stowaway from Cuba the day before he was arrested, and Lew Ah Bow having been a deserting seaman who had remained in the United States since June, 1922.

The Bureau of Immigration has been importuned on several occasions within the past year to grant some relief to Lim Toy, or to suggest what action he might take to procure the bonds breached. As will be seen in the inclosed records, the only solution or relief suggested was the possible passage of some congressional legislation to reimburse the bondsman. Your letter requested an opinion of the merits of the proposed bill for relief of this Chinese, and with respect to that

feature the department begs leave to state that it does not consider that Lim Toy is properly entitled to any reimbursement in this proceeding, inasmuch as his failure to produce the two aliens named in this blanket communication, at the time stipulated, was certainly a violation of the obligation assumed by him; and there did not seem to be any active effort on his part to fulfill his obligations in the matter.

Very truly yours,

ROBE CARL WHITE, *Acting Secretary.*

JUNE 15, 1926.

HON. CHAS. L. UNDERHILL, M. C.,  
*House of Representatives, Washington, D. C.*

MY DEAR MR. UNDERHILL: Adverting to your communication of February 8, 1926, transmitting a copy of bill (H. R. 8739) for the relief of Lim Toy, I beg to advise you that since my letter to you of February 20, 1926, the department has again examined with care the files relating to Lew Ah Bow, alias Ah Sing, and Lum Wing, alias Lum Wong Teung, in whose cases the bonds were declared breached and the penalty forfeited.

The records show that two demands were made upon the bondsman for the production of these Chinese aliens for deportation, the first in January, 1925, and the second in April of that year. As the aliens were not produced in response to either demand, the department declared the bonds breached and the penalty forfeited and covered into the Treasury the Liberty bonds deposited as collateral. In taking such action the department was fully justified.

It appears, however, that late in May, 1925, an attorney representing the bondsman addressed a communication to the Chinese inspector in charge at New York, advising that he was then in a position to deliver the aliens for deportation. He offered to surrender them at New York on June 5, 1925, or at Boston, if permitted to do so. He stated that at the time of delivery he would have in his possession a power of attorney from the bondsman authorizing him to receive the Liberty bonds on deposit as collateral. The Chinese inspector in charge at New York, in answer to this communication, advised the attorney that he would accept custody of the aliens, or they could be delivered at Boston if the attorney so desired. He did not reply to the portion of the attorney's letter in regard to the return of the Liberty bonds, and it does not appear from the record that the bondsman or the attorney had been previously informed of the fact that the bonds had been declared breached and the penalty forfeited.

As the Chinese inspector in charge at New York agreed to accept custody of the aliens and through his failure to reply to the attorney's letter in regard to the return of the bonds permitted him to assume that the bonds would be delivered upon the surrender of the aliens, the department has reached the conclusion that, in justice to the bondsmen, it must be considered that the attorney acted in good faith in bringing the Chinese in question to the immigration office at New York, and that he intended to surrender them in accordance with the communication he had received from the Chinese inspector in charge there.

Under these circumstances the department believes that the bondsman is entitled to relief and will interpose no objection to the passage of the bill (H. R. 8739) now before Congress.

Very truly yours,

ROBE CARL WHITE, *Assistant Secretary.*